#### ANDOVER BOARD OF HEALTH

# Minutes November 14, 2011, 6:00 P.M. First Floor Conference Room 36 Bartlet Street

The Board of Health Meeting was called to order at 6:01 p.m. Present were Ms. Candace B. Martin, Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health. Dr. Donald H. Miller, Vice-Chairman, arrived at 6:04 p.m.

#### I. Approval of Minutes

• Board of Health Meeting of October 17, 2011

Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of the Board of Health Meeting of October 17, 2011, with the following correction:

on Page 3, under V. <u>Definitive Subdivision Plans</u> • Rolling Green 40B Project – third sentence, change "...what they could do to improve water quality"... to ... "what they could do to improve *stormwater* quality..."

Unanimous approval.

# II. Appointments & Hearings

• 6:00 p.m. – Eva Xu for Teatone, Show Cause Hearing (Continued) - Present was Ms. Eva Xu, owner and Manager of Teatone. The Board noted that there had been some improvement because of the use of a Private Inspector, and the use of Staff Inspection Reports. Ms. Martin noted that there were three critical violations, and realized that the back page of the October 19, 2011 Inspection Report from Michelle Cramm was missing. Mr. Carbone made copies for the Board Members and the report showed 2 critical violations. 1 There was some discussion about grease on the hood and concerns about how the filters and ventilation system works. Another big concern was that at the October 19, 2011 inspection, there was no "Person in Charge". Ms Xu explained that she was out of the country at that time, but that her husband was there. Ms. Martin stressed that there should always be someone assigned as a "Person in Charge", and Mr. Carbone added that the person should be knowledgeable enough to help solve any problems that arise. Ms. Martin noted that over the last year there have been more critical violations than not. Ms. Kellman stated that she noticed that there was no Inspection Report for September submitted to the Health Division. Ms. Xu stated that she would send that in. Ms. Xu stated that she would continue to try to improve and would work hard with the Private Inspector. The Board agreed that private monthly inspections should continue and be submitted to the Health Division within 24 hours of the inspection and that an inspection should be done within three months by a Health Staff member.

A copy of the second page of the Inspection Report has been inserted into the packet after page 4.

Motion by Dr. Miller, seconded by Ms. Martin, to continue the Show Cause Hearing for another three months and for Ms. Xu to continue with the monthly inspections and critical violations will be reported immediately, with the understanding that the Health Division will make one inspection between now and the next three months. If any critical violations are found during this three month period, Ms. Xu will have to appear at the next scheduled Board of Health Meeting. Unanimous approval.

• 6:15 p.m. - Sandy Kiu for Peking Garden, Show Cause Hearing (Continued) -Present were Ms. Kiu, owner and Manager of Peking Garden, and Private Inspector, Ms. Shizian Sheng. Ms. Martin noted that Mr. Carbone provided a summarization of the violations and actions taken against Peking Garden from 2009 to the present. During that time there were only approximately seven months that no critical violations were found. Ms. Martin told Ms. Kiu that three months ago the Board gave her additional time so that corrections could be made, but the October 13, 2011 inspection showed five critical violations. Ms. Sheng explained that she has been working very diligently with Ms. Kiu and her staff to explain the issues and help Ms. Kiu to communicate with her staff about proper storage, cleanliness and temperatures with rice and pork. Ms. Martin asked if there had been any staff changes, and Ms. Sheng stated that there has not been. Ms. Martin was concerned because that means the same people are there making the same mistakes over and over again. Mr. Carbone stated that he knows there is a language and cultural barrier, but because the critical violations have continued for so long, his recommendation to the Board was to revoke Peking Garden's Food Establishment License and close the restaurant permanently. Dr. Miller asked how Ms. Kiu could reapply if the Board did revoke her license. Mr. Carbone replied that the Appeal of the Revocation could go to Superior Court. The regulations say an owner could reapply after one year. Ms. Sheng stated that she felt that since Ms. Kiu has only recently taken over the responsibility to be in charge, she deserved a chance to make some staff adjustments and to continue to work with Ms. Sheng. Since the restaurant has been running this way for so long, it will take a while to make the major changes that are needed.

Ms. Kiu was concerned because some of her staff has been with the restaurant from the very beginning. Ms. Martin suggested suspending Ms. Kiu's license for a week so she could reevaluate her staff and during that time, the Closing ORDER would have to be posted at the restaurant so the public will be informed of why the restaurant is closed. Ms. Kiu stated that she felt a week would be enough time because she would need to speak with her husband also concerning the staff. The Board stressed that it cannot tell Ms. Kiu what decisions to make, but that the Board needs to see some improvement.

Motion by Dr. Miller to issue a one week suspension of the Food Service License at Peking Garden and to continue the Revocation Hearing for three months, requiring monthly inspections by Ms. Sheng and one Health staff inspection during that time, and if any critical violations are found during this three month period, Ms. Kiu will have to appear at the next scheduled Board of Health Meeting. Ms. Martin seconded for discussion.

Ms. Kiu stated that closing for a week during the end of the year would be very bad for her as well as weekends and asked if they could close only during the week or for four days instead of seven. Also, the restaurant was closed for four days recently due to the power outage because of the snowstorm. The Board stated that the restaurant would have to be closed for a weekend. The Board pointed out that it already shut down the restaurant for two days in the past, and that didn't get her staff's attention. Ms. Martin stated that she would make an amendment that the start date be made within a week. Mr. Carbone recommended that the Board set a definite start and end date. Dr. Miller stated that if the restaurant closed tomorrow, November 15, 2011, they could be reopened by Thanksgiving, if they were suspended for six days.

Motion by Ms. Martin, seconded by Dr. Miller, to make an amendment to suspend the Food Service License at Peking Garden for six days starting Tuesday, November 15, 2011 ending Sunday, November 20.Unanimous approval.

Ms. Kiu asked if she could have more time before the closing because she had a lot of food that would have to be disposed of if she closed starting tomorrow. Ms. Kiu asked if the suspension could be from Thursday, November 24<sup>th</sup> to Tuesday, November 29<sup>th</sup> instead.

The Board voted to rescind the motion. Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kellman, Aye. Unanimous approval.

Motion by Dr. Miller, seconded by Ms. Martin to issue a six day License suspension from Thursday, November 24, 2011 through Tuesday November 29, 2011, that the Revocation Hearing be continued for three months, that monthly private inspections be conducted as well as one Health staff inspection, and if there are any critical violations during that time, the matter will be brought back before the Board of Health. All in favor, Ms. Martin, Aye, Dr. Miller, Aye, Ms. Kellman, Aye. Unanimous approval.

Ms. Martin informed the Board that while she was out of town, she saw postings on the restaurants that rated them A, B, or C. She would like to set a standard like that for the Town of Andover in the future. Mr. Carbone stated that he would look into what was being done in other communities.

#### **III.** Discussion

• **Set 2012 Meeting Schedule:** The Board set the next Board of Health Meetings for Monday, January 9, 2012, Monday, February 13, 2012, Monday, March 12, 2012, and Monday, April 9, 2012.

*Dr. Miller had a previous appointment and left the Board of Health Meeting at 7:20 p.m.* 

#### IV. Old Business

- View Permit Implementation Mr. Carbone informed the Board that there are still issues to be worked out before Health can use the new permitting system. Mr. Steve Bucuzzo, Assistant Town Manager started his vacation, so they were trying to set up a Monday morning meeting with the ViewPermit Project Director after Mr. Bucuzzo returns. Some of the delay is on our side because the IT staff has to remodel data to fit the ViewPermit format. We wanted to start working on the new system on November 28, 2011, but that will not be possible. So far only the Building Division is utilizing the new system. There have still been some bugs to work out on the Building side. Also, the deposit balancing has to be done with two different programs, so that can be time-consuming. Mr. Carbone will keep the momentum going.
- Rolling Green 40 B Mr. Carbone stated that they are working with the proponent as far as the proposal to do stormwater mitigation work for water coming onto the site. The Zoning Board (ZBA) has to decide what will be required. A decision was made that the Water Department will be the prime contacts. Jim McSurdy at the Water Treatment Plant will be the lead contact with support from Mr. Carbone and other staff. Ms. Martin stated that the traffic congestion is still her major concern and is not sure how to solve this problem.
- Storm Response Mr. Carbone stated that the Monday after the October 29<sup>th</sup>, 2011 snowstorm when there was no power at the Town Offices, the Town Manager decided to close the offices. Mr. Carbone came into work for a meeting and spent the day. While Mr. Carbone was at the office, he realized that we need better backup plans. Originally, the power company thought we would have no power for several days, and Mr. Carbone realized we would have to come up with a plan to issue emergency permits if the power was out long term. He realized that we need adjustments to our Continuity of Operations Plan (COOP). Ms. Kellman asked if we could hand write the permits, and Mr. Carbone told her that we could but would not be able to make copies. The Community Development & Planning Department has back-up generator power, but that only supplies lights. Mr. Carbone had several ideas such as upgrading his cell phone to become a wireless hotspot, the use of a wireless battery operated printer, laptops with WiFi and use of a charging pad. Sometimes when the power is out the phones are out also, but on this day the phones were working and several emergency calls were made with no staff to answer them. Several issues come into play if the power is out for many days - would we set up at the Library or Water Treatment Plant, how would payroll function, how would we get computers set up, should we use another Town's facilities? The Tree Department was overwhelmed due to the large number of trees that fell on the power lines. Should we enter into Mutual Aid Agreements with other communities? The Town will be working on an After-Action Report.
- Meeting with DPW & Town Council concerning Arsenic in the Bancroft Water Tank (Not on Agenda) - Mr. Carbone updated the Board that the drinking water quality was safe. The sediment in the Bancroft tank contained the arsenic and was a build-up from years of use. Arsenic settles out in the tank sediment and does not get reabsorded

into the water above it. The Town continues to respond to a Notice of Responsibility from the State and we are working on characterizing and responding to that now.

- 360 ° Management Review (Not on Agenda) Mr. Carbone explained that he sent out an e-mail that contained an attachment for a 360° Management Review to the Community Development & Planning Staff, the Board of Health, and several colleagues from outside of Andover. The Management Review was a survey with questions about how people perceive Mr. Carbone's performance. A Consultant hired by the Town will get the results and will then share them with Mr. Carbone. He was looking forward to the results so he can see how to improve his management skills.
- Storm Update Concerning Restaurants and Supermarkets in Andover (Not on Agenda) Ms. Martin asked Mr. Carbone how the storm affected the restaurants and supermarkets in Andover. Mr. Carbone explained that not all of the Town lost power. From Subway, down to the Library, down Essex St. and over to the other side of the railroad tracks near Teatone never lost power. Stop & Shop put their stock in refrigerated trailers. They did lose some products, but saved a lot. They were open for selling dry goods only. Whole Foods shipped their food to their Jamaica Plain store, but still lost approximately \$200,000 worth of product. Mr. Carbone paid a visit to a few other places as well.
- St. Augustine's Church Broken Water Line (Not on Agenda) Ms. Martin asked about the broken water main that the Archdiocese is refusing to fix. Mr. Carbone explained that it is a private water line that feeds the hydrant and runs up to two houses. The Archdiocese has refused to fix the line, so the people living in those houses complained to the DPW. Health Agent Patricia Crafts, met with the Water Department and Mike O'Day from St. Augustine's. Right now the houses are supplied with water from hoses from their neighbors' home. The Archdiocese has stated that they have no obligation to supply these two houses with water. The Andover Fire Department issued them a citation for discontinuing the water supply to the fire hydrant. Mr. Carbone spoke with one of the homeowners and told her that there is nothing the Health Division can do at this point because the problem is a private issue between the Archdiocese and the homeowner. Mr. Carbone suggested the homeowner speak with an Attorney who could help her.
- Salt Shed Update (Not on Agenda) Ms. Martin asked if Mr. Carbone had any updates on the relocation of the Salt Shed, and Mr. Carbone replied that he did not have any update at this time.
- Update on Susan Odle's property at 38 Michael Way (Not on Agenda) Mr. Carbone updated the Board that he received a phone call from the Attorney for the Condominium Association who has received a Court Order that allows the Association to enter the property and to bring Health, Fire and Police with them. One of the Town's concerns has been its liability and the rights of the homeowner's privacy, so even though the Court Order says we can enter also, Mr. Carbone is checking with Town Counsel for his legal advice.

• Update on Kirkland Drive Cleanup (Not on Agenda) – Mr. Carbone explained that a few weeks ago, he attended the Board of Selectmen (BOS) Executive Session with Ms. Kaija Gilmore, Inspector of Buildings, who was in attendance because of the unregistered cars on the property. The Board decided to table taking any court action while Mr. Carbone continued to work with the homeowners. Mr. Carbone had been in close communication with both of the homeowners, and after the BOS Meeting, informed them via voicemail that the BOS was seriously considering court action, so they needed to show some action on their part to prove that progress is being made. Mr. Carbone visited them after the storm and they still did not have power. Mr. Santangelo claimed that he did not receive the voicemail. Since the trees and power lines in their backyard were still down, they were unable to do any work in the yard. Mr. Carbone had spoken to someone at the Tree Department who thought that this week the trees should be taken care of. Mr. Santangelo told Mr. Carbone that he should be able to clean out the back yard and get the trash out by Friday. Mr. Carbone informed them that he would come by to check with them on Thursday.

# V. <u>Definitive Subdivision Plans</u>

• N/A

# VI. Plan Review

• N/A

# VII. Staff Reports

#### A. Director's Reports:

- Important Dates:
  - November 15 at 3:30 p.m. to 7:30 p.m. Flu Clinic at West Middle School
  - ° November 21 at 3:30 p.m. to 7:30 p.m. Flu Clinic at the Senior Center
  - ° December 12, 2011 at 6 p.m. Board of Health Meeting
- A. **Nurses' Reports for October, 2011** The Nurses' Reports for October, 2011, were for informational purposes only.
- B. **Inspectors' Reports for October, 2011** The Inspectors' Reports for October, 2011 were for informational purposes only.

# VIII. Board Member Reports

• N/A

# IX. Adjournment

Motion by Dr. Miller, seconded by Ms. Kellman, to adjourn at 7:56 p.m. Unanimous approval.